

Senate File 427

S-3086

1 Amend Senate File 427 as follows:

2 1. By striking page 1, line 1, through page 3, line
3 8, and inserting:

4 <Section 1. Section 724.1, subsection 1, paragraph
5 h, Code 2015, is amended by striking the paragraph.

6 Sec. 2. NEW SECTION. 724.1A Firearm suppressors
7 — certification.

8 1. As used in this section, unless the context
9 otherwise requires:

10 a. "*Certification*" means the participation and
11 assent of the chief law enforcement officer of the
12 jurisdiction where the applicant resides or maintains
13 an address of record, that is necessary under federal
14 law for the approval of an application to make or
15 transfer a firearm suppressor.

16 b. "*Chief law enforcement officer*" means the county
17 sheriff, chief of police, or the designee of such
18 official, that the federal bureau of alcohol, tobacco,
19 firearms and explosives, or any successor agency, has
20 identified by regulation or has determined is otherwise
21 eligible to provide any required certification for
22 making or transferring a firearm suppressor.

23 c. "*Firearm suppressor*" means a mechanical device
24 specifically constructed and designed so that when
25 attached to a firearm silences, muffles, or suppresses
26 the sound when fired that is considered a "*firearm*
27 *silencer*" or "*firearm muffler*" as defined in 18 U.S.C.
28 §921.

29 2. a. A chief law enforcement officer is not
30 required to make any certification under this section
31 the chief law enforcement officer knows to be false,
32 but the chief law enforcement officer shall not
33 refuse, based on a generalized objection, to issue a
34 certification to make or transfer a firearm suppressor.

35 b. When the certification of the chief law
36 enforcement officer is required by federal law or
37 regulation for making or transferring a firearm
38 suppressor, the chief law enforcement officer
39 shall, within thirty days of receipt of a request
40 for certification, issue such certification if the
41 applicant is not prohibited by law from making or
42 transferring a firearm suppressor or is not the subject
43 of a proceeding that could result in the applicant
44 being prohibited by law from making or transferring
45 the firearm suppressor. If the chief law enforcement
46 officer does not issue a certification as required by
47 this section, the chief law enforcement officer shall
48 provide the applicant with a written notification of
49 the denial and the reason for the denial.

50 c. A certification that has been approved under

1 this section grants the person the authority to make
2 or transfer a firearm suppressor as provided by state
3 and federal law.

4 3. An applicant whose request for certification
5 is denied may appeal the decision of the chief law
6 enforcement officer to the district court for the
7 county in which the applicant resides or maintains
8 an address of record. The court shall review the
9 decision of the chief law enforcement officer to deny
10 the certification de novo. If the court finds that
11 the applicant is not prohibited by law from making
12 or transferring the firearm suppressor, or is not the
13 subject of a proceeding that could result in such
14 prohibition, or that no substantial evidence supports
15 the decision of the chief law enforcement officer, the
16 court shall order the chief law enforcement officer
17 to issue the certification and award court costs and
18 reasonable attorney fees to the applicant. If the
19 court determines the applicant is not eligible to be
20 issued a certification, the court shall award court
21 costs and reasonable attorney fees to the political
22 subdivision of the state representing the chief law
23 enforcement officer.

24 4. In making a determination about whether to
25 issue a certification under subsection 2, a chief law
26 enforcement officer may conduct a criminal background
27 check, including an inquiry of the national instant
28 criminal background check system maintained by the
29 federal bureau of investigation or any successor
30 agency, but shall only require the applicant provide
31 as much information as is necessary to identify
32 the applicant for this purpose or to determine the
33 disposition of an arrest or proceeding relevant to the
34 eligibility of the applicant to lawfully possess or
35 receive a firearm suppressor. A chief law enforcement
36 officer shall not require access to or consent
37 to inspect any private premises as a condition of
38 providing a certification under this section.

39 5. A chief law enforcement officer and employees
40 of the chief law enforcement officer who act in good
41 faith are immune from liability arising from any act or
42 omission in making a certification as required by this
43 section.

44 **Sec. 3. NEW SECTION. 724.1B Firearm suppressors**
45 **— penalty.**

46 1. A person shall not possess a firearm suppressor
47 in this state if such possession is knowingly in
48 violation of federal law.

49 2. A person who possesses a firearm suppressor in
50 violation of subsection 1 commits a class "D" felony.>

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